

COMMON PLEAS COURT
WARREN COUNTY OHIO
FILED

2015 AUG 10 PM 2:43

JAMES L. SPRELL
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF WARREN COUNTY, OHIO
CIVIL DIVISION

Deborah Cain
731 Martha Drive
Franklin, Ohio 45005,

Plaintiff,

v.

Stellar Recovery, Inc.
c/o Business Filings Incorporated
3011 American Way
Missoula, MT 59808,

Defendant.

Case No. **15 CV 87593**

JUDGE **JUDGE GILB**

**COMPLAINT AND REQUEST FOR
DECLARATORY JUDGMENT**

Jury Demand Endorsed Herein

INTRODUCTION

1. This is an action for damages brought by a consumer against Defendant for breach of contract and violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

When it enacted the FDCPA, Congress found there to be abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Id.

FACTUAL ALLEGATIONS

2. Plaintiff Deborah Cain is a natural person residing at 731 Martha Drive, in the City of Franklin, County of Warren, and State of Ohio.

3. Defendant is Stellar Recovery, Inc., (hereinafter "Stellar"), a Montana debt collections company operating from an address at 1327 Highway 2 West, Suite 100, Kalispell, Montana 59901. Defendant does business collecting debts in the State of Ohio.

4. For the purposes of this Complaint, unless otherwise indicated, "Defendants" includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers of Defendants named in this caption.

5. Defendant is engaged in the collection of debts from consumers using the mail and telephone. Defendant regularly purchases debts and engages in collection of those debts. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6).

6. Plaintiff is a "consumer" as defined by the FDCPA, 15 U.S.C. §§ 1692a(3) and 1692c(d).

7. The purported debt that Defendant attempted to collect from Plaintiff was a "debt" as defined by the FDCPA, 15 U.S.C. § 1692a(5).

8. Plaintiff became over extended dealing with personal, family, and financial issues.

9. Because of these problems, Plaintiff was unable to make payment on a her Household Finance account, which Plaintiff used for the personal, family, and household services of the Plaintiff (the alleged Debt).

10. At some time prior to April 26, 2013, the alleged Debt was consigned, placed, sold, or otherwise transferred to Stellar.

11. On or about April 26, 2013, Stellar agreed to settle the account for \$3,089.28 to be paid by April 30, 2013. A redacted copy of the settlement letter is attached as Exhibit A.

12. Plaintiff, through the assistance of counsel, paid the settlement amount of \$3,089.28 over the telephone on April 29, 2013.

13. Plaintiff made the payment pursuant to the terms of the settlement letter.

14. On or about December 31, 2014, Stellar sent a collection letter to Plaintiff claiming that the account still had a balance of \$7,872.90 and proposed a settlement offer. A redacted copy of that letter is attached as Exhibit B.

15. In January of 2015, Plaintiff pulled her credit reports from Experian, Equifax and TransUnion.

16. On all of her credit reports, Stellar continued to report a balance due over a year and a half after the settlement amount was paid.

17. Plaintiff disputed the balance reported by Stellar with Equifax, Experian and TransUnion.

18. To date, Plaintiff has received notice from all three credit reporting agencies that her account information was corrected as a result of the dispute.

19. Although the account information was corrected after the dispute, Stellar attempted to collect on the debt and inaccurately reported the balance on Plaintiff's account for over a year after the terms of the settlement agreement were satisfied.

20. As a result of Defendant's actions, Plaintiff has suffered emotional distress and embarrassment.

FIRST CLAIM FOR RELIEF
(Violations of the FDCPA)

21. Plaintiff repeats, realleges, and incorporates by reference all of the foregoing paragraphs.
22. Defendant violated the FDCPA. Defendant's violations include, but are not limited to, the following:
- (a) Defendant violated 15 U.S.C. § 1692e(2) by falsely representing the amount and legal status of the alleged Debt.
 - (b) Defendant violated 15 U.S.C. § 1692(f)(1) by attempting to collect an amount not authorized by law or agreement.
23. As a result of the above averments, Defendant is liable to Plaintiff for a declaratory judgment that Defendant's conduct violated the FDCPA, as well as Plaintiff's actual damages, statutory damages, and attorney's fees and costs in an amount in excess of \$25,000.00, of which the exact amount will be proven at trial.

SECOND CLAIM FOR RELIEF
Breach of Contract

- Plaintiff repeats, realleges, and incorporates by reference all of the foregoing paragraphs.
24. Plaintiff and Defendant entered into a contract whereby Defendant agreed to settle Plaintiff's account for \$3,089.28 as settlement in full.
25. Plaintiff made the payment in full and on time according to said contract.
26. Defendant received the payments from the original balance but then continued to report that Plaintiff owed a balance.
27. As a result of this breach, Plaintiff has suffered extreme economic, emotional, mental, and physical hardship.

28. As a result of the above averments, Defendant is liable to Plaintiff for a declaratory judgment that Defendant's conduct violated the FDCPA and was a breach of contract, as well as Plaintiff's actual damages, statutory damages, and attorney's fees and costs in an amount in excess of \$25,000.00, of which the exact amount will be proven at trial.


PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendant and each of them for the following:

- a. Declaratory judgment that Defendant's conduct violated the FDCPA;
- b. Actual damages;
- c. Statutory damages pursuant to 15 U.S.C. § 1692k;
- d. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k;
- e. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

LUFTMAN, HECK & ASSOCIATES, LLP



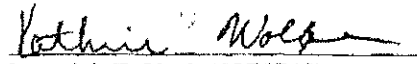
Jeremiah E. Heck (0076742)
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Attorneys for Plaintiff

CERTIFIED COPY
JAMES L. SPAETH, CLERK
WARREN COUNTY, OHIO
COMMON PLEAS COURT

BY 
DEPUTY

DEMAND FOR JURY TRIAL

Please take notice that Plaintiff demands a trial by jury in this action.


Jeremiah E. Heck (0076742)
Katherine L. Wolfe (0086356)

18772775520

Stellar Recovery INC

Stellar Recovery

03:19:53 p.m. 04-26-2013

2 / 2

Stellar Recovery Inc

Toll Free: 888-318-7045 Fax: (877) 277-3520
 1327 Hwy 2 West, Suite 100
 Kalispell, Montana 59901

Cain Deborah
 731 MARTHA DR
 FRANKLIN, OH 45005

Original Creditor:	HOUSEHOLD
FINANCE	
Creditor:	STELLAR
RECOVERY, INC	
Original Account No.:	██████████1188
Our File#:	5828726
Original Amount Owed:	\$7,632.86
Current Amount Due (includes interest, minus any payments)	\$8,102.14
Settlement Amount:	\$3,089.28



4/26/2013

Dear Cain Deborah:

Stellar Recovery Inc has agreed to settle in full the balance of \$8,102.14 on the above referenced account for a payment of \$3,089.28. Please remit \$3,089.28 by 4/30/2013.

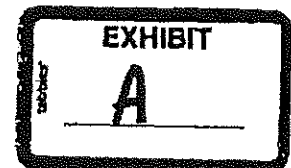
Once we have received payment that has been successfully processed this account will be considered settled in full.

Sincerely,
 Collections Department

This communication is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose.

ADDITIONAL INFORMATION REGARDING SETTLEMENTS: If, after settlement, the amount forgiven is greater than \$599.99, our client may be required by federal law (IRS 6050P) to report this amount and send you a Form 1099-C.

5828726
 SIF - 4-29-13
 Stellar-owned
 #227011



2015-06-29 03:54 PM

FEDERAL RESERVE SYSTEM

FedACH

Item Detail

Originator ABA: [REDACTED]

Receiver ABA: [REDACTED]

Individual Name: DEBORAH, CAIN AND DEBO

Individual ID No: [REDACTED]

Trace Number: [REDACTED]

Account Number: [REDACTED]

Trans Code: [REDACTED]

Amount \$3,089.28

Description:

Output Batch Information

Company Name: STELLAR PPD 6175

Service Class: 200

SEC Code: PPO

Company Entry Description: DEBITS

Batch Number: 86

Company ID: 943458446H

Effective Entry Date: 4/30/2013

Settlement Date: 5/1/2013